

HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO. 18794 OF 2006

DATED: 26.12.2006

Between:

Smt. Thota Jhansilaxmi

... Petitioner

and

The Principal Secretary to Government,
Revenue (Endowments) Department and another

... Respondents

HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO.18794 OF 2006

ORAL ORDER:

The writ petition is misconceived.

The petitioner admits to be an encroacher, in illegal occupation of 100 sq.yards site in Sy.No.20, Vaddepalli village, Sattenapalli Mandal, Guntur District, belonging to Sri Ranganayaka Swamy Temple, Solasa village, Yedlapadu Mandal, Guntur District.

The petitioner asserts that she and 245 others had encroached and squatted on the Temple lands for long. The petitioner claims to have constructed houses and that the Sattenapalli municipality allotted her a door number too, for the construction. He states that the Devasthanam is not deriving any income as the land in an extent of Ac.4.97 cents out of Ac.7.47 cents is rocky and barren. In the circumstances, the petitioner implies that to relieve the Temple of its unproductive property, she and others have illegally encroached upon the land.

After the encroachment, the Commissioner of Endowments, the

2nd respondent, on the basis of representations by the encroachers, is pleaded to have become solicitous for the welfare of the encroachers and addressed letters to the 1st respondent, to alienate the land of the Devasthanam, in favour of the encroachers. The 1st respondent is stated to have appointed a Three Man Committee which had recommended for alienation of the temple lands in favour of the encroachers. The 1st and 2nd respondents are also stated to be in correspondence to peg down the price at which the sale could be made so that the encroachers would be benefited (though the endowment deprived of a just return on the capital/market value for its property). As no concrete, eventual and final orders were passed by the 1st respondent despite a series of letters said to have been addressed by the 2nd respondent (directing alienation of lands in favour of the petitioner and other encroachers), the petitioner has filed this writ petition.

The petitioner does not place before this court any material disclosing the authority of the Government to alienate the property of an endowment or charitable institutions in favour of encroachers. The A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short 'the Act') enacts swift and summary procedure for evicting encroachers. For ensuring competent administration of Hindu religious and charitable institutions, the State Government has also appointed a battery of endowment officials, who are paid out of the public exchequer, they are seen however to be consistently

complacent. No steps have been taken to evict the encroachers. Instead, as would appear from the accompanying material papers, the 2nd respondent as head of endowment administration in the State (under the provisions of the Act) is more solicitous towards the encroachers than cognizant of his statutory responsibility for ensuring the proper management of endowment institutions. Having subverted his functions and misdirected himself as to his appropriate and core statutory obligations, the 2nd respondent appears to have corresponded with the 1st respondent to alienate the land in favour of the encroachers instead of directing expeditious eviction of the encroachers. Some local legislators are also pleaded to have championed the cause of the encroachers. As the petitioner has wide support representing her; some legislator, the Commissioner of Endowments and the State Government and as the Endowment is orphaned despite the provisions of the Act, the petitioner is seen to have become emboldened to file a writ petition for a Mandamus to direct the 1st respondent to direct the 2nd respondent to alienate the lands in her favour at a price of her choice.

The provisions of the Act mandate proper management of the properties of the endowment institution. They enjoin a statutory obligation on the Government, the officials of the endowment department and on the managers of religious and charitable institutions to effectively, regularly and relentlessly pursue proper management of the secular assets of endowment institutions. It is no

part of the statutory obligations of the 2nd respondent to pursue the interests of encroachers. The 2nd respondent is required to independently and assiduously discharge his statutory functions. The 1st respondent has also no jurisdiction to direct alienation of endowment properties for a value less than the market price. The 1st respondent, if it is so solicitously inclined towards encroachers, is always at liberty to allot Government property or property at its disposal to encroachers or may even provide grants for construction of houses in favour of encroachers. Liquidation of endowment properties does not however appear to be within the authority of the State Government.

On the aforesaid analysis, no relief could be granted. There are no merits. The writ petition is accordingly dismissed. No order as to costs.

GODA RAGHURAM, J

Date: 26.12.2006

cvm